

December 16, 2003

BUSINESS PURPOSE LOANS

A business purpose loan is defined as a loan made for a business, commercial, or agricultural use, but fall below the \$50,000 aggregate limit set under NCUA Rules and Regulations, Part 723. Over the past several years, credit unions have been increasingly making business purpose loans to members. Many times these loans are made using consumer documentation and underwriting standards.

The Kansas Department of Credit Unions has developed a set of Business Purpose Loan Guidelines to help you properly document and underwrite this type of loan.

The document attached to this Administrator's Bulletin is a copy of our guidelines for your review. We are extending a 30 day comment period for you to review the document and suggest any changes. After the review period, the document will be modified, if necessary based on your comments.

After January 15, 2004 the Business Purpose Loan Guidelines should be used as your guide when underwriting and documenting a business purpose loan.

USA PATRIOT ACT

In May 2003, NCUA issued Regulatory Alert 03-RA-07 informing credit unions of the final rule implementing section 326 of the USA PATRIOT Act. The rule basically required all financial institutions to establish procedures for identifying and verifying the identity of persons opening new accounts. Financial institutions were required to have these procedures in place by October 1, 2003 to be in compliance.

The final rule was intended to offer credit unions flexibility to tailor their program based on credit union size, location and types of services offered; however, every customer identification program (CIP) must meet the following minimum requirements:

- 1) The program must be in writing and incorporated into the credit union's Bank Secrecy Act policy.

- 2) The program must contain procedures for obtaining and verifying identity information for new members. This may include the examining of driver's licenses, passports, credit reports or other means of verification.
- 3) The program must contain procedures for keeping records of the information used to verify a member's identity.
- 4) The program must contain a procedure for determining if the member appears on any list of known or suspected terrorist or terrorist organizations designated by Treasury. (Presently no list exists pertaining directly to section 326 of the USA PATRIOT Act. Credit unions should be comparing all new members to lists provided by the Office of Foreign Asset Control, OFAC.)
- 5) Finally, the program should give adequate notice to potential members that information will be requested from them to verify their identity prior to opening a membership with the credit union.

A question arose recently regarding the copying of driver's licenses for member's files. While this sounds like a logical and simple way to verify a new member's identity, it is actually a violation of Kansas Statute.

K.S.A. 8-260 (a) (8) states: It shall be unlawful for any person, for any purpose to: display or possess any photograph, Photostat, duplicate or facsimile of a driver's license unless authorized by law.

Section 326 of the USA PATRIOT Act stops short of requiring copies of identification to be maintained by financial institutions. It only requires that financial institutions maintain records of the form of identification used to verify identity.

The credit union should seek advice of counsel to determine their process for documenting and verifying the member's identity.

KANSAS DEPARTMENT OF CREDIT UNIONS
400 Kansas Avenue Suite B
Topeka, Kansas 66603
Phone (785) 296-3021
FAX (785) 296-6830
<http://www.ink.org/public/kdcu/>
[E-mail kdcu1@mindspring.com](mailto:kdcu1@mindspring.com)

ADMINISTRATOR'S BULLETIN

AB – 03 - 01

December 16, 2003

HELP FOR CUs < \$10M IN ASSETS

The Kansas Department of Credit Unions takes an interest in small credit unions. Two examiners have received specialized training to help credit unions under \$10 million dollars in assets solve their problems.

If you feel that you could benefit from an examiner outside of the context of an examination, please call the department at 785-296-3021, and we will schedule one of the examiners to come in and work with you. Areas where we can help include, but are not limited to:

Lending,	Collections,	Accounting,
Marketing,	Operations	

The examiner will come on site and spend as much time as you need to understand your specific situation and offer solutions. We probably will not be able to solve all your problems, but we will be able to find sources to make them easier to manage. We may also be able to correct items that would be an issue in an examination in the future.

The intent of this program is to help small credit unions. Please let us help your credit union to be stronger and to better serve your membership.

CURRENT EXAMINATION ISSUES

It has been discovered in recent examinations that credit unions are in violation of the Kansas Department of Credit Unions Investment Guidelines. Investment securities are being held in safekeeping by the credit unions brokerage firm or security dealer. The Investment Guidelines state in section 6. c. – “The safekeeping agent must be either a corporate credit union, a bank or a trust company...”.

Other findings include the failure of the credit union to comply with the regulation on contingency planning. K.A.R. 121-2-1 requires that each credit union develop and maintain a current written contingency and business recovery plan, and annually conduct one or more operational tests of the plan.

If you have any questions, or would like clarification on these issues, please call our office at (785) 296-3021.

SOME CREDIT UNIONS MAY NEED TO FILE IRS FORM 1099-MISC!

Does your credit union pay **\$600** or more annually for **rent** of office space, or **\$600** or more annually for **services** performed by a **non-employee**?

If you answered “**Yes**” to either one or both of these questions, your credit union may need to file IRS Form 1099-MISC, Miscellaneous Income. Specific instructions for the filing and preparation of Form 1099-MISC are available from the IRS.

MERRY CHRISTMAS
AND HAPPY NEW YEAR

KANSAS DEPT. OF CREDIT UNIONS STAFF

ADMINISTRATOR

JEREL WRIGHT

FINANCIAL EXAMINER ADMINISTRATOR

JACK HOHMAN

FINANCIAL EXAMINER PRINCIPAL

JAMES BURGESS

WARREN MEYER

STEVE BORCHERS

MANNY LOPEZ

FINANCIAL EXAMINER SENIOR

JAMES KLAUSEN

VALORIE WHITE

RICHARD YADON

FINANCIAL EXAMINER

MICHAEL BAUGH

ANDREW NUMELIN

ADMINISTRATIVE SPECIALIST

CHERYL BISHOP

FREDA CHABIRA

Jerel Wright, Administrator